

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW  
COMMISSION**

RONDA G KARSTENS TRUST  
APPELLANT,

CASE NO: 23R 0205

V.

DECISION AND ORDER  
AFFIRMING THE DECISION  
OF THE DOUGLAS COUNTY  
BOARD OF EQUALIZATION

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 1141575250.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$611,100 for tax year 2023.
3. Ronda G Karstens Trust (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$611,100 for tax year 2023.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on January 28, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Brandt Karstens was present at the hearing for the Taxpayer.
8. Michael Lunkwitz (Appraiser) was present for the County Board.

## II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
11. When considering an appeal, a presumption exists that the "board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action."<sup>3</sup> That presumption "remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board."<sup>4</sup>
12. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

<sup>2</sup> See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal." *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

<sup>3</sup> *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

<sup>4</sup> *Id.* at 283-84.

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>6</sup> *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>7</sup>
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a two-story, single-family home, built in 1980 with 2,871 square feet (SF) above grade, no basement, two full baths and two half baths, one fireplace, enclosed porch with 322 SF, built-in garage area with 564 SF, wood deck with 976 SF, overall quality rating of good and condition rating of average.
17. The Taxpayer alleged that the Subject Property's valuation was arbitrary or unreasonable due to the amount of percentage increase in comparison to surrounding properties and the condition of the property.
18. The Taxpayer stated that the percentage increase to the property's valuation exceeded that of all other properties in the neighborhood. The Taxpayer did not bring any Property Record Files or other information to support the claim that the percentage increase was arbitrary or unreasonable for the Subject Property. Without the details contained in the PRF, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.<sup>9</sup>

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<sup>7</sup> *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

<sup>9</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on November 17, 2022, includes the following:

**NOTE:** *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A*

19. The Appraiser stated that the Subject Property received a decrease in valuation from the County Board in 2020 without need for a change to the property's data. The 2020 value did not change for 2021 or 2022. Therefore, the value changes made in 2023 appear to increase the Subject Property's value at a higher percentage rate than other property value increases in the neighborhood.
20. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. The increases (or decreases) to each property in the market study area were dependent upon the property data components and comparable sales within the study period.
21. The assessed value for real property may be different from year to year according to the circumstances.<sup>10</sup> For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.<sup>11</sup> Similarly, prior assessments of other properties are not relevant to the subsequent assessment of a subject property.<sup>12</sup>
22. The Taxpayer stated concern with foundational and retaining walls issues after flooding of the nearby lake. No professional inspections have been conducted at the property, and no additional information was provided to the Commission to demonstrate that the condition rating of average for the Subject Property for tax year 2023 was arbitrary or unreasonable.
23. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.

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*Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

<sup>10</sup> *Affiliated Foods Coop. v. Madison Cnty. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

<sup>11</sup> *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

<sup>12</sup> *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

24. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

#### IV. ORDER

##### IT IS ORDERED THAT:

1. The decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2023 is affirmed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 67,300
<u>Improvements</u>	<u>\$543,800</u>
Total	\$611,100

3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2023.
7. This Decision and Order is effective on February 10, 2025.

Signed and Sealed: February 10, 2025



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Jackie S. Russell, Commissioner